



**TENNESSEE HUMAN RIGHTS COMMISSION
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May 17, 2013
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Cocke (Phone)
Commissioner Davis
Commissioner Hewitt Miller
Commissioner Horne (phone)
Commissioner Miller
Commissioner Pierce
Commissioner Walker (Phone)
Commissioner Wiggins
Commissioner Wurzburg (Phone)

Commissioner's Absent:

Commissioner Blalock
Chair Garrett
Commissioner Jones
Commissioner McDaniel
Commissioner Starling
Commissioner White

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Shalini Rose, Associate General Counsel
Tiffany Taylor, Title VI Compliance Director
Richard Gadzekpo, Housing Coordinator
Lisa Lancaster, Executive Assistant

Guests:

Allen Staley, Shared Services Solutions

Call to Order

Commissioner Pierce called the meeting to order at 9:02 a.m. CDT in the absence of Chair Garrett. Roll call was taken and for a moment of silence was observed. Minutes of the February 28, 2013 meeting were reviewed. Commissioner Davis made a motion to accept. Commissioner Miller seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director, Beverly Watts reported that we have one investigator vacancy in the Knoxville Housing office and the position will not be filled until the next fiscal year. Notice has been received from HUD that they will pay us for all of the cases that we get and noted that we are down in case processing this year as compared to last year. We have approximately ten less cases than last year which is around \$30,000. EEOC has notified

us that they are going to pay us 84% which is a reduction of 16% on our fixed contract which amounts to about \$35,000. Overall that is about \$80,000 less money which will impact how we handle our personnel vacancy. One option is not to fill the position right away which will create a savings there. More information will be shared as it becomes available.

We are looking at utilizing some additional funds to close this year with the help of Allen Staley and a presentation will be made to the Budget and Audit committee before the July meeting who will report back to this board.

Two unpaid interns from Fisk University worked for six weeks with Title VI staff and Communications staff this spring and they did an excellent job and we are looking to have additional interns who will hopefully receive credit for their work during the next fiscal year.

Several commissioner terms have expired but they continue to serve until the Governor appoints replacements. Last June 2012 Commissioners Cocke, Davis and Blalock terms expired and this year on June 30, 2013 commissioners Wiggins, Wurzburg and Jones and we have requested that they all be reappointed. We will share more information when it is available.

Executive staff is working on goals and objectives for the next fiscal year as part of our strategic plan. You will receive more information on this at a later date. At the Murfreesboro Roundtable one issue that came up was looking at podcasts and virtual meetings and what the costs might be to tape special meetings. We will be working with staff and OIR to see what is available and what can be developed.

The survey results are included in the packets and we are receiving some good responses. Also when customer service issues arise they are being addressed by Executive Director Watts and Deputy Director Hooper. Often people are not satisfied with the conclusions or how we achieved those decisions. Director Watts asked commissioners to contact her if people contact them about commission decisions and staff will address their concerns.

The most common complaint is the amount of time it takes staff to get back with them when contacted.

Commissioner Hewitt Miller made a motion to accept the Executive Directors report and Commissioner Davis seconded the motion. A vote was taken and passed.

Education & Outreach Committee Report

Executive Director Watts gave the report in the absence of the Committee chair McDaniel as his wife is receiving her PHD in Divinity today in New Jersey. It was noted that the committee minutes reflected the wrong date but the minutes were correct. The kick offs in Knoxville, Nashville, Chattanooga and Memphis were updated and a balance of \$1.37 was reported. Thanks were expressed to those who donated.

Facility expenses were covered from the THRC budget for the Beck Cultural Center and for Nashville security. Both Memphis and UTC facilities were free and food was paid for by the donations.

The Honorary Advisory Committee was discussed in terms of who what when and where and pulling that together. The three roundtables in Brownsville, Knoxville and Murfreesboro went well. The Brownsville Mayor helped and approximately 45 were in attendance. There were 55 in attendance in Knoxville and approximately 50 attendees in Murfreesboro. All commissioners who participated were thanked to include Commissioner Wurzburg, Miller, Starling and Chair Garrett.

The Employment Law Seminar is set for June 6, 2013 with the EEOC Chair Jacqueline Barren as our keynote speaker. It was noted that the flier was very nice for the event. It was also noted that Jane Eskind should be sent a birthday card from the Commission.

Commissioner Wurzburg noted that the mini employment seminar in Memphis was well attended and requested information on the Chattanooga seminar and it was noted that there were 63 attendees at the event. Executive staff will review the mini seminars and determine effectiveness and the overall results to see if they should be repeated in the future.

The July meeting may be an in person meeting and possibly a commissioner retreat. Commissioner Wurzburg asked if CLE credits would be issued for the ELS and the mini ELS seminars and the answer was yes all have been approved.

A motion to accept the report was made by Commissioner Cocke and seconded by Commissioner Wiggins. A vote was taken and passed.

50th Anniversary Committee Report

Commissioner Wurzburg reported that all of the kick-off events are complete and noted that the Memphis event felt like a reunion. There were many honorees that are getting on in age and before the event two of those that were to be honored passed away and shortly after the event Maxine Smith passed away. Judge Sugarman and his wife went to her house and took her the honor and she was tickled to still be receiving acknowledgements for what she had done.

The Memphis event was held at City Hall and was lovely and the staff has just been terrific in doing the work it has done. Susannah Berry has done a superb job as lead staff with our director getting things done.

The big event will be October 4, 2013 held in Nashville will be very special. We are expecting hundreds of people to attend the Luncheon with a program that will coincide with our board meeting and we expect that all commissioners will make this event. The honorees in the past have either been leaders or foot soldiers in the civil rights movement and the coming event will look at folks throughout the state who were useful and helpful in getting our commission as a functioning commission, helped with the legislation and we are looking for your nominees of people who helped fill that role to be submitted so that we can honor them.

Also, we are going to have in our program an honor roll of those who contributed to the civil rights movement in Tennessee who are now deceased. We are looking for your nominations for this as well.

The committee will meet again soon to finalize plans about our advisory committee and other plans that need to be fleshed out for the big event in October.

Commissioner Miller noted that we will have a commemorative booklet and advertising will be sold to pay for the booklet. We will need the help of all the commissioners to do that. As soon as we get an ad structure we will share that with Commissioners.

Commissioner Pierce noted that things look very good and it is going to be a very special event. She reminded commissioners to make nominations for the honorees and the honor roll because we don't want to miss people.

Executive Director Watts noted that the ad structure has been set. The front and back covers will be \$1,000 each; full page ads are \$750; half page ads are \$500; quarter page ads are \$250. We did not go to business card size but we could be convinced if people present the money. This will go to committee for review and after that notice will be going out to commissioners and partners for congratulatory notes.

Commissioner Wurzburg noted that a panel discussion is being discussed as opposed to a keynote speaker. Invitations have been sent and awaiting responses.

Commissioner Miller made a motion to accept the report and Commissioner Davis seconded the motion. A vote was taken and passed.

Employment Case Report

Deputy Director, Sabrina Hooper reported on the period February 1, 2013 to April 30, 2013 during which time 210 inquiries were received which resulted in 120 accepted for investigation: 114 of those were dual filed and 6 were THRC only. The agency closed 116 cases with a closed charge age of 280 days. Our open inventory at the end of April is 361 cases with an average charge age of 214 days.

During the same time period, we had 10 mediations closed which resulted in \$258,599 in monetary benefits to the Complainants. There were five (5) settlements that closed. Four of which resulted in \$6,693 in monetary benefits to the Complainants and one closed with non- monetary benefit.

In comparison to last year we received 249 inquiries, which resulted in 139 charges. During the same time period the agency closed 115 cases. Our open inventory at the end of April 2012 was 301 cases with an average charge age of 228 days. The end of the EEOC contract is coming to a close and we are in pretty good shape to fulfill the contract.

In housing during the same time frame we received 68 inquiries and accepted 26 for investigation. The primary bases continue to be disability and race at 42% of those cases accepted. We closed 30 dual filed cases with 54% under 100 days. 12 were no probable cause, 60% were administratively closed; 17 were conciliated and one was withdrawn because the trial had begun.

In comparison to last year we had an increase of inquiries but a decrease in cases accepted but we were able to close with an increase of 36%. Currently with the HUD 50%

goal we are at 40% and we believe that there is time to improve that number by the end of June.

A motion to accept the Employment and Housing reports was made by Commissioner Davis and seconded by Commissioner Hewitt Miller. A vote was taken and passed.

Legal Report

General Counsel Shay Rose reported on the February 15, 2013 to April 30, 2013 timeframe during which time the legal department closed 77 cases in employment and one case in which a hearing was conducted and we are still awaiting the results. There were 22 investigative plans were reviewed and two reconsiderations were completed.

In housing we closed 20 cases of which 10 were conciliated and there were four cause cases. Legal also reviewed one investigative plan and completed two reconsiderations. We also completed 4 copy requests and have none in inventory currently.

Legal conducted mini ELS seminars in Chattanooga lead by General Counsel Rose and in Memphis lead by Associate Counsel Appelt and she also attended the Fair Housing Matters conference in April and served as a moderator.

The ELS is June 6, 2013 with the EEOC Chair as special guest. We currently have 80 people registered and Deputy Director Hooper and myself will do a piece on per se violations. All commissioners are encouraged to come and should contact Susannah Berry to make those arrangements. We would love to have commissioners introduce the speakers.

The legal cause case update for employment includes the case from August of 2010 and a hearing was held in November of 2012 and the ALJ took the case under advisement and we submitted purposed findings and facts at the end of February 2013 and we are still waiting for a response.

The housing case update includes the child with a disability and had to use a wheelchair. The family wanted to build a ramp for her and the landlord would not approve the location because they felt it would be an eyesore. Mediation is being attempted and we have filed with the Secretary of State for a hearing.

The second case is a refusal to rent where the complainant called and spoke with the landlord about the availability of the apartment. The landlord suspected he was black and asked him, and when he said he was, the landlord then said the apartment was not available. He admitted that it was because of the complainant's race. This case has been set for hearing in July in Memphis.

The third case is an eviction notice based on familial status. The complainant was a maintenance person for the property and lived at the property in a three bedroom apartment with his fiancé and their four kids. The apartment complex has a policy of only two people per bedroom and when the fiancé became pregnant and the landlord found out, they were told they had a year to move. This would require the complainant losing his job because the maintenance person was required to live on the property and there were no four bedroom apartments at the complex.

This case is always one that is on the line because it comes down to judgment as to whether or not the two person per bedroom policy falls within local ordinances or not. In this case there was no local ordinance; it was just the policy of the apartment complex. It is understood among most fair housing groups that a baby is not considered a full person under such occupancy policies, and so they would not fall under that two person per bedroom policy as an infant could stay in the bedroom with the parents for several years. This case will be mediated next week.

The next case is where the complainants needed emotional support animals and gave supporting documents to the landlord denied their request. This case settled and each complainant received \$4,000 and \$2,000 to THRC for education and outreach and the landlord will revise their policy and make sure that staff is trained on how to appropriately deal with those requests.

The last case is retaliation where the complainant said she filed a housing complaint and the landlord retaliated against her by turning off the electricity when he was notified of the complaint. This case settled for \$2,000 and THRC received \$100 for education and outreach, and training for the landlord.

The legislative update starts with the major bill being our Sunset one which has been signed by the Governor and extends THRC until June of 2017. The second bill is an appropriations amendment that Senator Summerville put on the very end of the session and wanted to reduce funding to THRC by \$2.4 million. This amendment failed.

The rest of the bills are mostly Senator Summerville's bills that we have updated you on at each meeting and they have all either not moved, failed, or have gone to general sub and it is possible that they will all come back next year.

Commissioner Wiggins asked where Senator Summerville is from and he represents Montgomery county and Dickson county.

Commissioner Hewitt Miller asked if Mr. Lui in the stir fry case has filed in court and General Counsel noted that we have received nothing further on the case.

Commissioner Wiggins made a motion to accept the legal report. Commissioner Miller seconded the motion. A vote was taken and passed.

Outreach & Education

Executive Director Watts gave the report in the absence of Susannah Berry who is out sick. She reported that the Knoxville office will move on June 7, 2013 to Pellissippi State Community College. There is no public transportation out there so there will be discussion about options and alternatives that can be put into place to take complaints and also the city of Knoxville FHAP and THRC will meet with the mayor to discuss the possibility of their contract ending at the end of June. If that happens THRC would have the entire state in regards to housing complaints.

The Nashville office was scheduled to move next week on the 23rd and that has been rescheduled tentatively to June 28th. We will be moving to Tennessee Tower on the 23rd floor. We will be in a hard walled space with our offices inside of that.

Also facility management has been outsourced and there are no longer state workers that do building maintenance and also motor vehicle management has been privatized to WeCars.

The communications report notes that there were 23 presentations and speaking events, 29 outreach events for a total of 53 for the period with the total for the fiscal year at 108. From February to April we were gone almost every day and in April we had three events in two days that included our mini ELS, our 50th Anniversary Kick off and the West Tennessee Fair Housing Event.

Susannah Berry has sent letters to the panel that we are trying to get for the 50th Anniversary Luncheon that includes John Sighthaler, James Lawson, Rip Patton and Dianne Nash.

There are a lot of articles attached to your report and most of them deal with the 50th Anniversary events. We have received a lot of good press and some television coverage.

There were also articles dealing with the Mayor of Bluff City and the federal lawsuit and one on equal pay issues.

Commissioner Hewitt Miller made a motion to accept the Communications report. Commissioner Davis seconded the motion. A vote was taken and passed.

Title VI Compliance Report

Tiffany Taylor reported on the period from February 1, 2013 to April 30, 2013 and noted that staff have been very busy with Implementation Plans which is summarized in the chart on the first page of the report. It shows that 42 agencies have submitted plans and the Department of Human Resources did not have to submit a plan so 41 plans have been reviewed.

22% of the agencies received a finding which is a slight decrease from last year when 9 agencies received a finding and three agencies submitted their plan late. The plans are due on October 1st of each year. 32 agencies did not have a finding; there were 7 agencies with one finding, one agency with three findings which was the Tennessee Commission on Children and Youth and one agency with five findings which was the Secretary of State, Department of State.

There were two agencies that did not respond to our initial review and request for additional information. That is the opportunity for agencies to reply to us, let us know or ask questions about what they have submitted. Those agencies were the department of state and the Tennessee Commission on Children and Youth and at that time those issues became findings.

The number of responses to the final findings was four to include the Tennessee Board of Regents, Tennessee Commission on Children and Youth, the department of State and the University of Tennessee. All provided a response to the final findings.

We had two agencies that received repeat findings and they were the department of State and the Tennessee Board of Regents.

In regards to complaint investigations there were four complaint investigations that we looked at during the time period. One involved the Tennessee Arts Commission which is an ongoing monitoring of their correction plan that was submitted to us. The second complaint was against the Tennessee Department of Education which was an allegation of racial discrimination based on contract termination and the number of contracts awarded to African Americans. This complaint is still open.

Two complaints closed as unsubstantiated against East Tennessee University where a student alleged that there were racial inflammatory words used against them and also a student at Tennessee Technology Center in Nashville who alleged that she was being treated unfairly when it came to white students.

Concerns were received from the Marshall County NAACP regarding the manner in which resources were allocated. We have done an initial review but not official complaint was received.

As you know one of our statutory responsibilities is to periodically review agencies to make sure that they are complying with Title VI and there were four agencies that we worked with during the period and two involved compliance reviews from last year that included the Tennessee Department of Corrections who has submitted corrective action measures and plans and we are monitoring those and Tennessee Wildlife Resource Agency.

We conducted initial onsite reviews for the Tennessee Department of Agriculture and the Tennessee Department of Veterans Affairs.

During the period a lot of outreach and training was done. We received a request to speak to the Affirmative Action and Diversity Officers for the Tennessee Board of Regents where we gave them an overview of the program for Title VI and best practices. It was attended by all the officers from all the universities, colleges and technology schools were there and the presentation was well received and very interactive.

We also provided technical assistance as more agencies are beginning to do training for the year and they require technical assistance from us on the manner in which they are doing their training and we also received a request from Representative Larry Miller out of Memphis. He has some Title VI concerns so Executive Director Watts and I met with him.

As far as statistics go during the time period we had 89 inquiries and five were accepted as complaints and this compares to last year when we had 91 inquiries and 15 were accepted as complaints. This represented a slight decrease from last year.

Commission Wiggins what the concerns of the Marshall county NAACP were. Executive Director Watts noted that it is an old issue and noted that Jimmy Garland out of Clarksville brought the concern about ongoing issues with the Board of Education. Some of the issues

may have been resolved through Title VII and the EEOC and it is unclear. Some had filed pro se under a Title VII complaint because they were given a right to sue and there are other issues such as there are less African Americans in leadership positions and people have been moved from leadership positions who are African American.

They have contacted us and the Department of Justice, community relations services where Walter Atkisson was contacted. Tiffany Taylor and I will meet with them and report back to you with the details. I spoke at Marshall County's NAACP Freedom Fund Dinner last year and these issues were discussed and when they talked with me my understanding was they have filed with EEOC and received a right to sue and what I told them was that we did not have the authority to look at the issues. These might be broader but may not be. Broad based it could be a Title VI issue. We will keep you posted.

A motion was made to accept the Title VI report by Commissioner Wiggins and seconded by Commissioner Miller. A vote was taken and passed.

Announcements

Commissioner Pierce noted that she and Commissioner Miller have been involved with hearings on violence against women across the state and we just had the hearing in Nashville yesterday at Belmont University and will have another in Knoxville on Wednesday May 22. These are hearings to determine an update on the financial or economic impact of violence against women and this year it has included the topic of human trafficking.

It is really something that is just totally amazing that there are so many problems that people don't know about it and the whole idea of trafficking in Tennessee is something that is increasing and they reported that at least 85% of the counties in Tennessee have reported at least one case of human trafficking in the last 24 months and they expect that to be worse now than the last report.

The State Economic Counsel Summit which will be October 27th and 28th in Nashville at the Airport Marriott. And a flier will be sent out to all commissioners.

The meeting in July 26, 2013 will be an in person meeting.

Commissioner Hewitt Miller made a motion to adjourn the meeting at 10:05 a.m. A vote was taken and passed.